



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

Case No.: 470-2012-00895

██████████,
Complainant,

vs.

MAHAJAN CORPORATION d/b/a SUBWAY SANDWICH SHOP,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On December 23, 2011, ██████████ ("Complainant") filed a complaint with the Commission against Mahajan Corporation d/b/a Subway Sandwich Shop ("Respondent") alleging sexual harassment in violation of the Indiana Civil Rights Law (IC 22-9, et seq). Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether the Complainant was subject to sexual harassment resulting in her constructive discharge. In order to prevail, Complainant must show that: (1) she experienced sexually offensive comments or actions in the workplace; (2) the comments or actions were severe or pervasive; (3) she made it known that the comments or actions were unwelcome; (4) Respondent failed to take corrective action to address the hostile work environment and (5) a reasonable person would resign her employment given such circumstances.

Complainant's charge is supported by the testimony of ██████████ (who filed a separate complaint), who indicated that Complainant's supervisor, ██████████, repeatedly offered to pay both of them for sex, made lewd remarks and touched them inappropriately, creating a sexually hostile work environment. Although Respondent contended that Complainant never reported any of ██████████ alleged behavior before she stopped coming in to work, both Complainant and her witness, ██████████, indicated that they reported ██████████ behavior to ██████████ but ██████████ failed to do anything to stop the behavior towards them. ██████████ failure to take effective action to stop ██████████ behavior, in turn, appears to have justified Complainant's decision to stop working for Respondent. A reasonable person would have resigned her employment given such circumstances.

Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred. A public hearing is necessary to determine whether a violation of



the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

August 2, 2012

Date

Joshua Brewster, Esq.
Deputy Director
Indiana Civil Rights Commission